

CITY OF NEWPORT BEACH
PLANNING COMMISSION STAFF REPORT

June 23, 2011
Agenda Item 2

SUBJECT: Mariner's Pointe - (PA2010-114)
100 – 300 West Coast Highway

- General Plan Amendment No. GP2010-009
- Code Amendment No. CA2010-009
- Site Development Review No. SR2010-001
- Conditional Use Permit No. UP2010-024
- Variance No. VA 2010-004
- Parcel Map No. NP2010-008
- Traffic Study No. TS2011-001

APPLICANT: VBAS Corporation

PLANNER: Jaime Murillo, Associate Planner
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PROJECT SUMMARY

The applicant is seeking a General Plan Amendment (GPA) to accommodate the development of a 23,015-square-foot, two-story commercial building and a three-story parking structure. The following applications are requested or required in order to implement the project as proposed:

1. An amendment to the Land Use Element of the General Plan to increase the allowable floor area for the project site from 16,518 square feet (0.5 FAR) to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);
2. An amendment to the Zoning Map of the Zoning Code to increase the allowable floor area limitation for the project site from 0.3/0.5 FAR to a maximum development limit of 23,015 square feet (approx. 0.7 FAR);
3. A site development review to allow the construction of a 23,015-square-foot, two-story building and a three-story parking structure that will exceed the 31-foot base height limit with a maximum height of 40 feet;
4. A conditional use permit to allow for the construction of a parking structure adjacent to a residential zoning district, to modify the off-street parking requirements, allow for the use of off-site parking, and to establish a parking management plan for the site;
5. A variance to allow the commercial building and parking structure to encroach five feet into the five-foot rear yard setback;

6. A parcel map to consolidate six lots into one parcel; and
7. A traffic study pursuant to the City's Traffic Phasing Ordinance.

RECOMMENDATION

- 1) Conduct a public hearing; and
- 2) Adopt Resolution No. ____ (Attachment No. PC1) recommending that the City Council:
 - a. Adopt the Mitigated Negative Declaration, including the Mitigation Monitoring and Reporting Program; and
 - b. Find that, based on the weight of the evidence in the administrative record, including Traffic Study No. TS2011-001, that the Project complies with the Traffic Phasing Ordinance; and
 - c. Approve General Plan Amendment No. GP2010-009, Code Amendment No. CA2010-009, Site Development Review No. SR2010-001, Conditional Use Permit No. 2010-024, Variance No. 2010-004, and Parcel Map No. 2010-008, subject to findings and conditions.

INTRODUCTION

Project Setting

The 0.76-acre (33,036-square-foot) project site is located at the northwest corner of the intersection of West Coast Highway and Dover Drive. The property consists of six legal lots and is currently developed with two vacant buildings totaling 5,447 square feet (0.16 FAR combined). The property is currently fenced and is in a state of disrepair. The project site is narrow and elongated in an east-west orientation. The topography of the site is relatively flat, with the exception of the hillside located along the northern boundary of the site that ranges from approximately 40-50 feet in height. The hillside is heavily vegetated with ornamental trees, shrubs and groundcover.

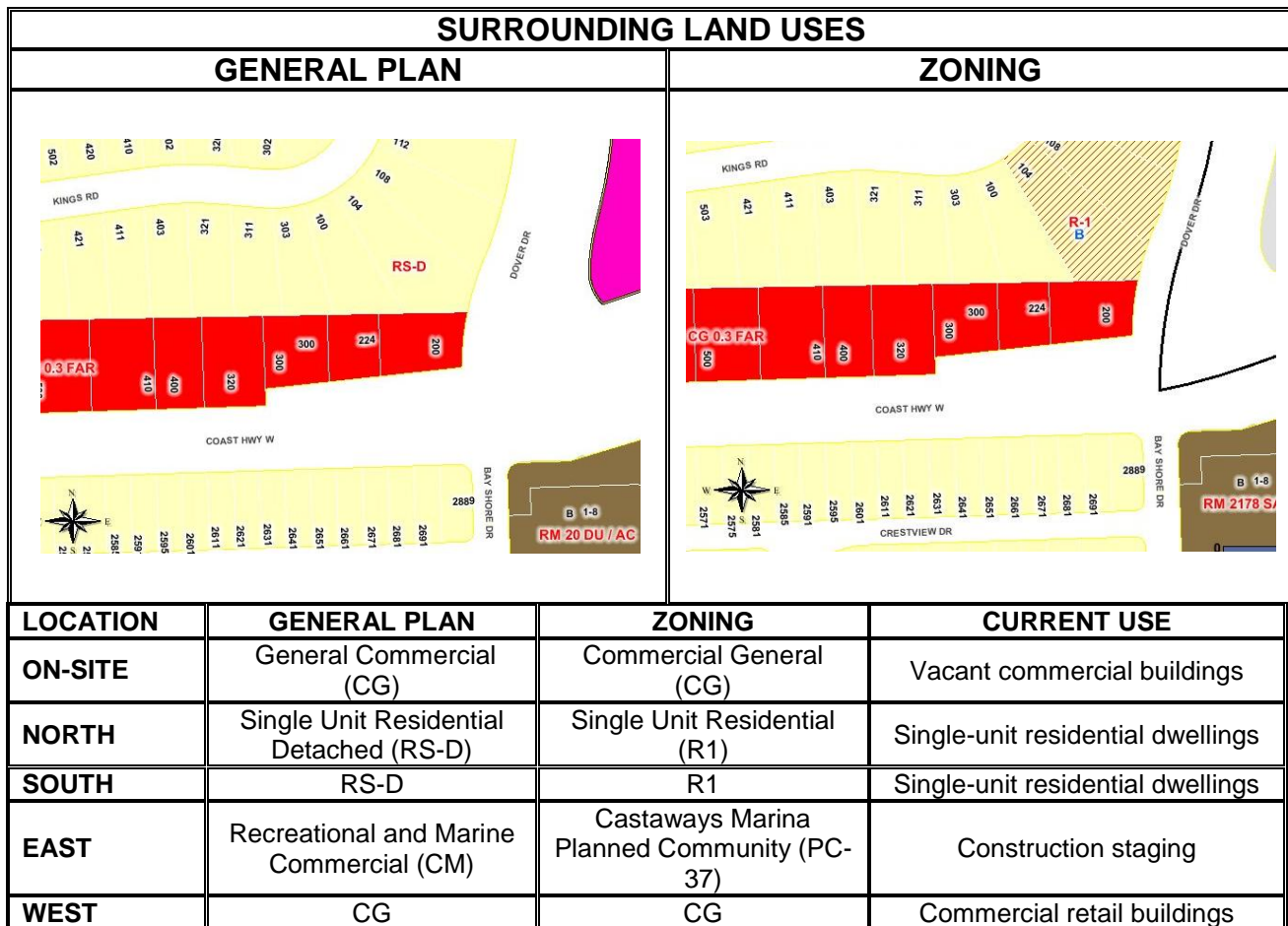
The single-unit residential neighborhood of Cliff Haven is located north of the project site along the hillside above and the single-unit residential neighborhood of Bayshores is located to the south across West Coast Highway. To the southwest is the Anchorage Apartments, a multi-unit residential development and marina. To the east is Lower Castaways, recently donated to the City and currently used for construction staging. To the west are several commercial retail buildings.

VICINITY MAP



Enlarged View of Site





The project also includes the use of 20 parking spaces within an off-site parking lot located at 601 Dover Drive for the use of employee parking in the evenings. The off-site parking lot is developed with a 12,000-square-foot medical office building and provides a total of 68 parking spaces. Single-unit residential dwellings are located to the north, west, and south. Castaways Park is located to the east, above the Lower Castaways construction staging lot.

Project Description

The applicant is proposing to demolish the existing buildings on-site, merge the lots into one parcel (Attachment No. PC2- Parcel Map), and construct a 23,015-square-foot commercial building and a three-level, 50,274-square-foot parking structure (Attachment No. PC3). Details of the project components are as follows:

Commercial Building

The proposed commercial building will be located on the eastern portion of the site and would be two levels; the first level would consist of 11,794 square feet of gross floor

area and the second level would consist of 11,221 square feet. The exact tenant mix is unknown at this time; however, it is anticipated that two large restaurants will serve as anchor tenants, with the remaining square footage to be used for retail and medical office uses. Potential tenants, in addition to the restaurants, may include a jewelry store, clothing stores, spa, and plastic surgeon's office. For the purpose of preparing the environmental, traffic, and parking analysis, the following land use mix was used:

Proposed Land Use Mix	
Land Use	Gross Floor Area
Restaurants	10,493 sf
Retail	9,522 sf
Medical Office	3,000 sf
Total	23,015 sf

The building has been designed with varying roof heights. The majority of the building is 32 feet 4 inches to the top of the parapet, with the exception of two tower elements and a mechanical equipment enclosure. The octagonal tower element at the southeasterly corner of the property serves as the building's primary architectural element and measures 38 feet in height to the top of the cupola. An architectural finial is proposed on the top of the cupola, resulting in a total height of 40 feet. The second tower element is located over the middle portion of the building and measures 37 feet 6 inches in height. All the roof top mechanical equipment of the building will be located along the rear of the building and enclosed within an equipment enclosure that would measure 35 feet in height.

A 700-square-foot outdoor dining patio and 14-foot-high screen wall is proposed to encroach into the public right-of-way adjacent to Dover Drive. The seating arrangement is undetermined at this time. The Public Works Department has indicated their support for an encroachment agreement for these improvements, pending Planning Commission and City Council review.

Parking Structure

A three-level parking structure is proposed on the western portion of the property, adjacent to the commercial building. A 755-square-foot commercial space is located on the first level of the structure, below the ramp, providing a storefront and retail presence. The third level of the parking structure is proposed to be partially covered with a solid roof measuring 35 feet in height. The roof is proposed to be setback 37 feet 5 inches from the front edge of the parking structure as viewed from West Coast Highway. The uncovered portion of the parking structure would measure 29 feet 4 inches in height to the top of the parapet, with the exception of two elevator/stairwell enclosures, an architectural tower element over the parking structure ramp, and a trellis feature. The primary elevator/stairwell enclosure measures 35 feet in height, and the secondary stairwell enclosure measures 33 feet 1 inch in height. The architectural tower element

over the ramp measures 37 feet in height and the trellis measures 33 feet in height. The parking structure will have two driveways accessible from West Coast Highway; the easterly driveway will allow for both ingress and egress and the westerly driveway will allow for egress only. A total of 136 parking spaces can be accommodated within the parking structure through a combination of standard, tandem, and valet-only parking stalls (see *Parking Strategy* section of report for additional details).

Landscaping

The West Coast Highway frontage and Dover Drive frontage will be improved with approximately 3,005 square feet of new landscaping that includes a variety of plant palettes and decorative hardscaping. In addition, a water feature of approximately 280 square feet in area would encompass the southeast corner of the project site. The water feature and a majority of the landscaping are proposed to be located within the public right-of-way and will require an encroachment permit and/or agreement from Caltrans and the City to implement. A three-foot-wide planter area is also proposed along the westerly side property line.

Infrastructure Improvements

Shoring and a retaining wall ranging from 2 feet to 14 feet in height are proposed to be along the northern property line. The retaining wall is an integral part of the parking structure and commercial building. The existing three power poles and overhead power lines that transverse the northern property line and that currently provide electricity to the site would be removed. The power lines are proposed to be undergrounded and re-routed to run around the eastern, southern, and western perimeter of the project site before reconnecting to the existing overhead lines west of the project site.

Coast Highway Lane Drop Extension

Between Dover Drive and the western property boundary, West Coast Highway abruptly narrows from three westbound through lanes to two lanes. The applicant is proposing to extend the third lane for approximately 30 feet to accommodate the egress from the westerly driveway. The portion of the lane extension that occurs on the subject property would be dedicated to the City. The applicant will be required to obtain an offer of dedication or an easement from the adjacent property owner for the small portion of the lane extension that occurs on the adjacent property. The property owner has indicated he would be willing to provide the easement. If the easement is not provided, the western driveway from the proposed parking structure will need to be reconfigured and/or the parking structure circulation may need to be redesigned. The applicant is also proposing to restripe and reconfigure the project frontage to create a designated "Bus Only" loading area between the two driveways to accommodate the existing bus stop.

Background

The subject property consists of six of the 17 lots that were originally proposed for the Bel Mare redevelopment project proposed in 2004 (100-600 West Coast Highway). In anticipation of project approval and demolition of the existing structures, the previous landowner vacated the eight detached retail/commercial structures. Entitlements to develop a 56,000-square-foot retail center was approved on January 19, 2006; however, due to difficulties obtaining approvals to install a new traffic signal from Caltrans and litigation with former prospective tenants, the previous landowner was unable to implement the approved project. The properties fell into disrepair and the City worked with the landowner to correct dangerous conditions and public nuisances, including graffiti, abandoned signs, overgrown landscaping, weeds, debris, broken windows, and harboring vagrants. One of the City Council's goals in 2010 was to abate the nuisances and improve these properties. The properties were eventually sold to two separate buyers in 2010. The applicant purchased the easterly six lots and submitted this application to redevelop the property. Another buyer purchased the westerly 11 lots and has rehabilitated and re-used the six existing buildings that occupy the abutting site to the west for retail and vehicle sales uses.

DISCUSSION

General Plan

General Plan Policies

The project site is located within the Mariner's Mile commercial corridor. The Land Use Element of the General Plan designates the site General Commercial (CG) with a maximum allowable floor area to land area ratio (FAR) of 0.3 FAR (9,910 square feet). Where parcels are consolidated to accommodate larger commercial projects that provide sufficient parking, Land Use Element Policy LU 6.19.13 permits development intensity up to 0.5 FAR (16,518 square feet). The CG designation is intended to provide for a wide variety of commercial activities primarily oriented to serve citywide or regional needs. The proposed commercial building would be consistent with this designation and a parking strategy has been developed (see *Parking Strategy* section of report) to ensure the development will provide sufficient parking. With regard to the maximum 0.5 FAR limitation, the applicant is requesting to increase the maximum development limit to 23,015 square feet (approximately 0.7 FAR).

The General Plan includes several goals and policies related to development in the City and includes a goal (LU 6.19) to improve the Mariner's Mile corridor to reflect and take advantage of its location on the Newport Harbor waterfront, support and respect adjacent residential neighborhoods, and exhibit a quality image for travelers on Coast Highway. During the visioning process for the General Plan update, participants identified Mariner's Mile as a location that needs revitalization, therefore, Land Use Element Policy LU 6.19.6 requires projects to be consistent with the Mariner's Mile

Strategic Vision and Design Framework. This plan was prepared to help improve the visual character of the corridor with new landscaping and streetscape amenities, as well as improvements in private developments through standards for architecture, landscaping, and lighting. A complete consistency analysis of each of the applicable General Plan policies appears within the Draft Mitigated Negative Declaration on pages 87 through 99 and concludes that the project is consistent with each of the adopted goals and policies.

General Plan Amendment – Increased Intensity (FAR)

In considering the proposed GPA to increase the development intensity of the project site, the Planning Commission should specifically consider the following Land Use Element policy:

LU 3.2 Growth and Change

Enhance existing neighborhoods, districts, and corridors, allowing for re-use and infill with uses that are complementary in type, form, scale, and character. Changes in use and/or density/intensity should be considered only in those areas that are economically underperforming, are necessary to accommodate Newport Beach's share of projected regional population growth, improve the relationship and reduce commuting distance between home and jobs, or enhance the values that distinguish Newport Beach as a special place to live for its residents. The scale of growth and new development shall be coordinated with the provision of adequate infrastructure and public services, including standards for acceptable traffic level of service.

The applicant's primary objective is to construct two successful quality restaurants; however, the applicant asserts that it is financially infeasible to redevelop the properties at the currently permitted 0.5 FAR limit with a project that includes a high level of architectural detail and a parking structure needed to support the proposed restaurant uses. The construction of the third parking level would still be necessary even without the additional retail and office space due to the peak parking demands of restaurant uses during the evening hours. Therefore, in order to make the project feasible from a financial perspective, the applicant is requesting the additional intensity to offset the increased costs associated with the proposed architectural detail and construction of the parking structure. If this is the case, the proposed GPA for increased intensity could be considered consistent with LU 3.2 as follows:

- The General Plan recognizes the Mariner's Mile corridor as a location that needs revitalization.
- The increased intensity would provide an economic stimulus needed to accommodate the redevelopment of six lots into one commercial development.

- As stated in the General Plan, Newport Beach residents desire high quality development and have identified the Mariner's Mile corridor is an area that needs revitalization.
- Redevelopment of the subject property helps implement the goal of revitalizing the corridor and may encourage the redevelopment of other underperforming properties within the Mariner's Mile corridor. The project's high quality and distinct architectural features, such as the corner tower element and cupola, will serve as a focal point and anchor into the entry into the Mariner's Mile corridor. In addition, the project's landscaping and water feature within the public right-of-way will significantly improve the streetscape in the corridor.
- As described in more detail in the *Traffic Study* section of this report, a traffic impact analysis was prepared for the project and found that the addition of project-related traffic would not have a significant impact at any of the study intersections.
- The project site is served by existing infrastructure and public services. The proposed increase in intensity will not necessitate any expansion of existing infrastructure. The proposed lane drop extension on West Coast Highway will improve safety of westbound traffic, while improving access to the site. The removal of the three existing power poles and undergrounding of the power lines will provide a public benefit.

Notwithstanding the redevelopment benefits and improvements to the public right-of-way, the requested increase in intensity is of concern because the project maximizes the building envelope and requires several deviations from the development standards to accommodate the project. With the exception of the balconies and patio space along the front of the commercial building, minimal open space is provided on-site. A complex parking strategy is required to provide sufficient parking for the project and includes an adjustment to the parking requirements based on a shared parking analysis, use of a parking management plan that utilizes tandem and valet parking, and use of off-site parking for employees. Although designed to minimize visual and noise impacts to the residents located on the hillside above, the bulk of the parking structure and commercial building remains in close proximity to the residents.

General Plan Table Change

As indicated above, the primary benefit of approving the proposed GPA would be the resulting redevelopment and consolidation of six lots into one unified development. Amendments to the General Plan are legislative, and as such, conditions of approval may not be imposed on the GPA requiring that the consolidation of the three parcels actually occur. Therefore, should this proposed GPA be approved, staff recommends that a new anomaly (Anomaly No. 79) be created within the Land Use Element that

limits the project site to a 0.3/0.5 FAR, but which includes provisions for a maximum development limit of 23,015 square feet, provided all six legal lots are consolidated into one parcel to provided unified site design. See Attachment No. PC4 for draft changes to Land Use Element.

Charter Section 423 (Measure S)

Charter Section 423 requires voter approval of any major General Plan amendment to the General Plan. A major General Plan amendment is one that increases allowed density or intensity by 40,000 square feet of non-residential floor area, or increases traffic by more than 100 peak hour vehicle trips, or increases residential dwelling units by 100 units. These thresholds apply to the total of increases resulting from the amendment itself, plus 80 percent of the increases resulting from prior amendments affecting the same neighborhood (defined as a Statistical Area as shown in the General Plan Land Use Element) and adopted within the preceding ten years.

The project site for which the General Plan amendment is proposed is located within Statistical Area H4 of the General Plan Land Use Element, and would result in an increase of 6,497 square feet of non-residential floor area. Based on the trip generation rates contained in the Council Policy A-18 (blended commercial rate), the proposed project is forecast to generate an additional 19 a.m. peak hour trips and 26 p.m. peak hour trips.

There has been one prior amendment approved within Statistical Area H4 since the adoption of the 2006 General Plan (GP2010-004), which was adopted on September 14, 2010. This prior amendment involved land use changes for the Holiday Express and the Balboa Bay Club from mixed-use designations to the Visitor-Serving Commercial designation and did not involve any changes in density or intensity. Table 1 below shows the floor area and peak hour trips analysis for the prior amendment and the proposed project:

Table 1 - Charter Section 423 Area and Peak Hour Trip Calculation			
	Area	A.M. Peak Trips	P.M. Peak Trips
Prior Amendment GP2010-004	0 sq.ft. (80%)	0 a.m. trips (80%)	0 a.m. trips (80%)
Proposed Amendment	6,497 sq.ft. (100%)	19.49 a.m. trips (100%)	25.99 p.m. trips (100%)
Total	6,497 sq.ft.	19.49 a.m. trips	25.99 p.m. trips

The proposed GPA does not create any new dwelling units and as indicated in the above table, the proposed General Plan amendment does not exceed the non-residential floor area threshold, and does not exceed the a.m. or p.m. peak hour vehicle trips threshold. Therefore, none of the three thresholds that require a vote pursuant to Charter Section 423 are exceeded. If the proposed General Plan amendment is

approved by City Council, the amendment will become a prior amendment and 80 percent of the increases will be tracked for ten years for any proposed future amendments.

Zoning & Site Design

Zoning Compliance

The project is located within the Commercial General (CG) zoning district. The intent of the CG zoning district is to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve City-wide or regional needs. Although the redevelopment of the project site as a commercial building with retail, office, and restaurant uses is consistent with the CG district, the development of the project requires a number of deviations from the developments standards. The following table provides a summary of the project's compliance with applicable development standards and deviations requested:

Table 2- Zoning Compliance		
Development Standards	Required	Provided
Lot Size	5,000 square feet min.	33,036 square feet (requires parcel map)
Setbacks		
Front	0	3 feet
Side	0	3 feet
Rear	5 feet min.	0 feet (requires variance)
Height	26 feet for flat roofs or parapet walls	35 feet flat/parapet (requires site development review)
	31 feet for pitched roofs	40 feet pitched roofs (requires site development review)
Floor Area Ratio	0.5 FAR with lot consolidation (16,518 sq. ft.)	23,013 sq. ft. (Approx. 0.7 FAR) (requires a GPA and Zoning Map Amendment)
Parking	157 spaces total (estimate-see <i>Parking Requirements</i> section of report for detailed discussion)	156 spaces total: 136 spaces on-site (requires a conditional use permit to modify parking requirements, allow for tandem and valet parking, and to allow parking structure adjacent to residential zoning district) 20 spaces off-site (requires a conditional use permit to allow off-site parking)
Solid Waste and Recyclable Materials	48 sq. ft. refuse 48 sq. ft. recycling 96 sq. ft. total	550 sq. ft. total (refuse and recycling combined)

Zoning Map Amendment

Should the project be approved, staff recommends that a new anomaly (Anomaly No. 79) be created on the Zoning Map that limits the project site to a 0.3/0.5 FAR. The anomaly should also indicate that a maximum development limit of 23,015 square feet is allowed provided all six legal lots are consolidated into one parcel to provided unified site design. See Attachment No. PC5 for draft changes to Zoning Map.

Site Development Review

Pursuant to 20.52.080 of the Zoning Code, nonresidential construction of 20,000 square feet or more of gross floor area requires site development review by the Planning Commission. These findings and the facts in support of these findings are discussed below:

Table 3-Site Development Review Findings and Facts in Support of Findings	
Finding	Facts in Support of Finding
1) <i>Allowed within the subject zoning district</i>	A commercial building with retail, office, and restaurant uses is a permitted use within the CG zoning district. The specific restaurants will be required to obtain separate minor or conditional use permits prior to occupying the building.
2) <i>In compliance with all of the following applicable criteria</i>	
a) <i>Compliance with this Section, the General Plan, this Zoning Code, any applicable specific plan, and other applicable criteria and policies related to the use or structure</i>	The proposed commercial building is consistent with the CG General Plan land use designation and CG zoning district. A GPA and Zoning Map Amendment are requested to allow the proposed increase in intensity. The applicant is also requesting a conditional use permit and variance to allow for a number of deviations from the zoning standards. These requests are being reviewed concurrently with the site development review. In addition, Land Use Element Policy LU 6.19.6 requires the implementation of landscape, signage, lighting, sidewalk, pedestrian crossing, and other amenities consistent with the Mariner's Mile Strategic Vision and Design Framework. Applicable to this project would be the landscape, lighting, and signage recommendations within the framework. Project signage has not yet been developed and will be submitted for a subsequent review. The project implements the landscaping requirements of the framework by providing the minimum four-foot-wide planter area with continuous hedge and palms plantings. With regard to lighting, the lighting has been designed to respect the views from above and to prevent any light spillage beyond the perimeter of the structure and to eliminate any sources of glare to the residents and motorists. The framework also includes architectural objectives that focus on responsible and sensitive design, with an emphasis on roofs and roof elements to respond to views from above. The proposed building has been designed with tiled tower elements and clean flat roofs with all mechanical equipment screened from view within an enclosure. The third level of the parking structure has been designed with a solid roof that screens the resident's view of vehicles and lighting.
b) <i>The efficient arrangement of</i>	<ul style="list-style-type: none"> The commercial building is configured in such way to resemble a village of two-story buildings, with various roof heights, connected to parking

<p><i>structures on the site and the harmonious relationship of the structures to one another and to other adjacent developments; and whether the relationship is based on standards of good design</i></p>	<p>on each of the two levels.</p> <ul style="list-style-type: none"> • Although the project is requesting an increase in height, the building will not block or obstruct any views of the bay or harbor from the residential homes located on the 40 to 50-foot high hillside above the project site. • The roof of the commercial building has been designed to respect the views of the residences above and consists of a combination of flat and sloped roof lines. Roof-top mechanical equipment would be fully enclosed and would not be visible from the residences above. The enclosure will have louver vents directed away from the residential properties. • The rear two-thirds of the parking structure would be enclosed and will screen the view of the parked vehicles and parking structure lighting from the residents located above the hillside. The parking structure roof will also provide an additional sound buffer to the residents above. • The mechanical equipment enclosure has been located at the rear of the commercial building to minimize the bulk of the building as viewed from West Coast Highway.
<p><i>c) The compatibility in terms of bulk, scale, and aesthetic treatment of structures on the site and adjacent developments and public areas</i></p>	<ul style="list-style-type: none"> • The building and parking structure includes modulated building masses and rooflines and a variation of building materials and colors that would provide visual relief. • To break up the bulk and massing of the parking structure as viewed from West Coast Highway, a 755-square-foot commercial space has been located on the first level of the structure, below the ramp, providing a storefront and retail presence in front the of the structure. A tower element will extend this storefront along the face of the structure. • The inclusion of architectural elements such as balconies, tower features, awnings, trellises, ornamental windows and railings, and the variation in building elevations and protrusions would also enhance the visual quality of the buildings and street frontage. • The project's architectural style, with the use of stone, tile and glass materials, blends in color and form with some development within Mariner's Mile, will provide a high standard of quality for future neighboring development, and complies with the Mariner's Mile Strategic Vision and Design Framework. • The tower and cupola feature, the tallest portion of the building, is located at the southeasterly corner of the site, away from the nearest residential and commercial uses. To minimize the bulk of the parking structure as viewed from West Coast Highway, the parking structure roof has been setback 37 feet 5 inches from the front edge of the structure. The resulting height of the parking structure along the front façade is 29 feet 4 inches providing a transition to the commercial properties to the west. • The west elevation of the building has been designed as a flat wall with no openings due to its proximity to the side property line and in anticipation that the commercial site to the west may be redeveloped in the future; however, until such time, the west elevation will be visible from motorist traveling south of West Coast Highway. To soften the appearance of this elevation and break up the mass of the parking structure, the applicant is proposing to install three large green screens separated by columnar evergreen trees. Architectural detailing has also been added in the form of borders around the green screens and columns. • The rear elevation of the building and parking structure has also been

	<p>designed as a flat wall with no openings due to its placement on the rear property line and will range in height from approximately 20 feet to 35 feet from existing grade. However, the homes located on the hillside above are located a minimum of 60 feet away and approximately 40-50 feet above the project's pad elevation with views oriented predominately over the project site towards the bay and harbor, and therefore, will not be significantly impacted by the height and bulk of the structures.</p>
<p>d) <i>The adequacy, efficiency, and safety of pedestrian and vehicular access, including drive aisles, driveways, and parking and loading spaces</i></p>	<ul style="list-style-type: none"> • The project would eliminate one existing driveway access off Dover Drive and would consolidate four existing driveways along West Coast Highway into two driveways. Therefore, the project minimizes the number of driveways along West Cost Highway, thereby reducing potential conflicts and increasing vehicular safety. The lane drop extension of Coast Highway will also enhance the safety of the highway, while providing safe access from the site, as determined by the City Traffic Engineer. • The project provides adequate sight distance at each driveway, as determined by the City Traffic Engineer. • The proposed parking structure has been designed to accommodate and provide safe access for emergency, delivery, and refuse collections vehicles, as determined by the City Traffic Engineer. • The project would include enhanced pedestrian walkways that provide access between the various uses and areas within the project site, and to the surrounding public sidewalks and uses. • The existing bus stop along the project frontage would be relocated and a new designated "Bus Only" area would be created between the two driveways. • See <i>Parking Strategy</i> and <i>Conditional Use Permit Findings</i> section for detailed discussion on adequacy of parking.
<p>e) <i>The adequacy and efficiency of landscaping and open space areas and the use of water efficient plant and irrigation materials</i></p>	<ul style="list-style-type: none"> • The project includes the enhanced use of landscaping, including a variation of ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the parking structure and commercial building from the surrounding areas and roadways; however, the applicant is proposing a 700-square-foot outdoor dining patio within the public right-of-way along Dover Drive. Staff believes the proposed project can further benefit from additional landscaping along the Dover Drive frontage and has included a condition prohibiting the installation of the patio within right-of-way and requiring additional landscaping consistent with the proposed plant palette. • A new water feature would encompass the southeast corner of the project site. • The landscape plan includes the requirements of the Mariner's Mile Design Framework, but also incorporates non-invasive and water conserving plant types. • The project is subject to the City's Water Efficient Landscape Ordinance (Chapter 14.17 of NBMC).
<p>f) <i>The protection of significant views from public right(s)-of-way and compliance with Section 20.30.100 (Public View Protection).</i></p>	<p>The portion of West Coast Highway, on which the project is located, is not a designated coastal view road and is not considered a public view corridor requiring public view protection.</p>

<p>3) <i>Not detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed development.</i></p>	<ul style="list-style-type: none"> • The project has been conditioned to ensure that potential conflicts with surrounding land uses are minimized to the extent possible to maintain a healthy environment for both businesses and residents. • The project's refuse area is located within the first level of the parking garage and will not result in odor impacts to residents above or noise associated with refuse collection. • To minimize or eliminate odors associated with the restaurant uses impacting the residents above the site, the project has been conditioned to require the installation of Pollution Control Units with odor eliminators that take the exhaust from the hoods in the kitchens and filter it for particulates and odor. • The project is subject to the City's Outdoor Lighting requirements contained with Section 20.30.070 of the Zoning Code. • Illumination of the proposed tower and cupola feature has been conditioned to consist of soft accent lighting so as not to become a visual disturbance to the views of the adjacent residents. • The proposed 750-square-foot outdoor dining area located within the public-right-of-away adjacent to Dover will be screened from view of the residents above the hillside and is not anticipated to result in a significant noise disturbance; however, until the specific operation of the restaurants are better known, staff is recommending that this outdoor patio not be approved at this time and that the public right-of-way remain landscaped. The outdoor patio request should be deferred until the review of the use permits for the future restaurant uses.
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Height Increase

The project site is located in the Nonresidential, Shoreline Height Limit Area where the height of structures are limited to 26 feet for flat roofs/parapet walls and to 31 feet for sloped roofs with a minimum 3:12 pitch. The height of a structure can be increased up to a maximum of 35 feet for flat roofs/parapet walls and up to 40 feet for sloped roofs, subject to the approval of a Site Development Review. Section 20.30.060.C.3 of the Zoning Code requires the Planning Commission to make certain findings in order to allow an increase in the height of a structure above the base height limit. These findings and the facts in support of these findings are discussed below

1. *The project applicant is providing additional project amenities beyond those that are otherwise required.*

The most significant amenity the project provides is the long desired redevelopment of this highly visible property that serves as a gateway into the Mariner's Mile corridor. This property is constrained due to its shallow depths and as such has proven difficult to redevelop and as fallen into disrepair. The building exhibits a high level of architectural detail and includes design features that enhance the aesthetics of the building and the area. The most prominent design feature of the building is the octagonal tower and cupola at the southeasterly corner of the site intended to serve as landmark feature and an anchor into the Mariner's Mile corridor area of the City. The parking structure has been designed to incorporate a variety of materials and features (i.e. stone treatment

and hanging vines) and includes vertical recessed openings and a storefront with a vertical tower element to break up the massing and monotony commonly associated with parking structures.

The project includes enhanced landscaping of the public right-of-way along the West Coast Highway and Dover Drive. In addition to the continuous hedge and palm trees requirement of the Mariner's Mile Strategic Vision and Design Framework, the landscaping plan incorporates additional ornamental groundcover, vines, shrubs, and trees, to help soften and buffer the massing of the parking structure and commercial building and enhance the streetscape of Mariner's Mile. To further improve the streetscape and improve the entrance into the corridor, the applicant is proposing the installation of 280-square-foot water feature that would encompass the southeast corner of the project site. Water effects are proposed to include a knife-edge water weir falling towards the street at the center, boarded by low walls at each end of the feature. The water feature will also include plant material and a combination of eroded, colored concrete and natural stone.

The design and height of the building benefits the residential properties above and to the north by providing noise attenuation from roadway noise generated from vehicles on West Coast Highway and Dover Drive. As illustrated in Figure 14 of the Draft Mitigated Negative Declaration (Attachment No. PC9), a net decrease in roadway noise of up to 9 dBA CNEL is expected as a result of the noise attenuation effect of the new structures.

An additional amenity proposed by the applicant is to remove the three existing power poles and overhead power lines located across the rear property line on the adjacent residential lots. At minimum, City policy requires the applicant to underground their utilities from the nearest power pole, allowing the power poles to remain in place. In this case, the applicant is proposing to completely remove the power poles and underground the power lines around the eastern, southern, and western perimeter of the project site. An easement to Southern California Edison for the power lines will also be provided along the westerly property line.

Another amenity includes the elimination of the existing driveway access off Dover Drive and the consolidation of the existing four driveways along West Coast Highway into two main access driveways. Therefore, the project minimizes the number of driveways along West Coast Highway, ensuring that the desired traffic flow along this major road is maintained and ensuring that the continuity of the street-facing building elevations would not be interrupted. The extension of the lane drop on West Coast Highway also serves to enhance the safety of the highway by extending the length of the merge lane, which providing safe access from the site.

2. *The architectural design of the project provides visual interest through the use of light and shadow, recessed planes, vertical elements, and varied roof planes;*

The goal of the architectural design is to simulate the appearance of a small Mediterranean village of two-story commercial buildings, resulting in modulated building masses and rooflines. The project consists mainly of flat roofs with heights between 29 feet 4 inches and 32 feet 4 inches. Several vertical elements have been included in the design such as the tower features and elevator/stairwell enclosures which range in height from 35 feet to 40 feet. The main elevator and stairwell enclosure has been integrated into the building façade as a prominent architectural feature and creates a transition between the commercial and parking structure components of the project. To break up the bulk and massing of the parking structure as viewed from West Coast Highway, a 755-square-foot commercial space has been located on the first level of the structure, below the ramp, providing a storefront and retail presence in front the of the structure. A tower element extends this storefront vertically along the face of the structure.

The storefronts on both the upper and lower level will be setback from the edge of the balcony along the street elevation, creating light and shadow effects. Light and shadow will also be created through the extensive use of awnings and recessed openings. The massing of the parking structure is also minimized through the use of vertical opening openings along the street frontage.

3. *The increased height will not result in undesirable or abrupt scale changes or relationships being created between the proposed structure(s) and existing adjacent developments or public spaces. Where appropriate, the proposed structure(s) provide a gradual transition to taller or shorter structures on abutting properties; and*

The tower and cupola feature, the tallest portion of the building, is located at the southeasterly corner of the site, away from the nearest residential and commercial uses. The height of the project transitions in height from east to west, minimizing the change in scale to the adjacent commercial priorities to the west. With the exception of the tower elements and mechanical equipment enclosure, the height of the commercial building is 32 feet 4 inches. To minimize the visual height and bulk of the parking structure as viewed in perspective from West Coast Highway, the parking structure roof has been setback 37 feet 5 inches from the front edge of the structure. The resulting height of the parking structure along the front façade is 29 feet 4 inches providing a transition to the commercial properties to the west as viewed from the highway. Although the adjacent commercial property is currently with one-story commercial buildings, the site has the potential to be redeveloped at heights of 31 feet without discretionary approvals.

The homes on the residential lots to the north are situated at the top of the hillside that ranges in height from 40-50 feet above the project's pad elevation. The homes are also located a minimum of 60 feet back from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes at the top of the slope minimize the impact of the proposed structure heights to the adjacent residences.

4. *The structure will have no more floor area than could have been achieved without the approval of the height increase.*

The requested increase in floor area does not drive the need for the increased height. The need for the third level of the parking structure is primarily driven by the need to provide parking for the two restaurants that will serve as anchor tenants to the development. If the project is designed with only the two restaurants at the currently permitted 0.5 FAR, the third level of parking would still be needed to accommodate the 100 parking spaces anticipated for the restaurant uses. The height of the parking structure could be reduced from 35 feet to 29 feet 4 inches if the roof was removed; however, the roof provides a benefit to the residents located above the hillside as it shields parking structure lighting and glare, and buffers some vehicle noise.

With regard to the height of the commercial building, the need for height is driven by the need to provide desirable 12-foot-high ceilings for the retail tenants ensuring that these commercial building will remain marketable to tenants. According to the applicant, in order to provide 12-foot-high clear ceilings and accommodate space for mechanical systems and fire sprinklers, a total plate height between 14 feet 6 inches and 17 feet 6 inches is required. Plate heights within the project utilize a minimum 14-foot-8-inch dimension. It's also important to note that a majority of the commercial building will maintain a maximum height of 32 feet 4 inches, with the exception for the tower elements, designed to enhance the architecture of the building, and elevator/stairwell enclosures and mechanical equipment enclosure.

Parking Requirements

Since the final land use mix is unknown at this time, the final parking requirements for the proposed project cannot be determined. However, based on the Zoning Code parking requirements of the assumed land use mix, approximately 157 parking spaces would be required based on the following formulas:

Table 4 - Assumed Parking Requirements					
Land Use	Gross Square Feet (gsf)¹	Leasable Restaurant Area	Net Public Area (NPA)²	Parking Ratio	Required Parking
Restaurant	9,522	8,280 sf	4,968 sf ³	1 per 50 sf of NPA	100
Retail	10,493	n/a	n/a	1 per 250 gsf	42
Medical Office	3,000	n/a	n/a	1 per 200 gsf	15
Total	23,015				157

An assumption was made with regard to the restaurant parking requirements given that the specific design (i.e., seating type, arrangement, bar area) and operational characteristics (i.e. live entertainment, dancing) are not known at this time. Additionally, since parking requirements for restaurants are based on NPA and not gross floor area, a conservative assumption of 60 percent of leasable area was used to determine expected NPA. Pursuant to Section 20.40.060 of the Zoning Code, Food Service uses (restaurants) are required to provide off-street parking within a range of one space for each 30 to 50 square feet of NPA, depending on the physical design, operational characteristics, and location of the establishment. It is the applicant's intent for these restaurants to be occupied by fine dining establishments, with very low turnover. Other fine dining restaurants located within Mariner's Mile and Corona del Mar are typically required to provide parking at the lower ratio of 1 space per 50 square feet of NPA; therefore, the same ratio was used for the project analysis. The physical design and operational characteristics that would lead to higher parking ratios include uses with higher occupant loads, such as bars or restaurants with large bar areas, the operation of live entertainment and/or dancing, or restaurants with higher turnover rates, such as a family restaurants or diners.

Section 20.40.040 of the Zoning Code includes a provision that excludes a portion of outdoor dining area (equal to 25 percent of the interior NPA) from the required parking calculations. Based on the assumed total interior net public area of 4,968 square feet, 1,242 square feet of outdoor dining would be excluded from the parking calculations ($4,968 \times 0.25 = 1,242$ sf). As shown on the plans, the total outdoor dining area proposed is 1,230 square feet.

It should be noted that each of the proposed restaurants will be required to apply for a minor or conditional use permit, at which time the final parking requirements can be calculated based on the specific design and operational characteristics.

¹ Gross square feet includes enclosed corridor behind each of the suites

² **Area, Net Public.** The total area used to serve customers, including customer sales and display areas, customer seating areas, service counters, and service queue and waiting areas, but excluding restrooms and offices, kitchens, storage and utility areas, and similar areas used by the employees of the establishment.

³ Estimated as 60-percent of leasable restaurant area

Parking Strategy

The parking strategy for the project is complex and includes a request to adjust the parking requirements based on a shared parking analysis, use of a parking management plan that utilizes tandem and valet parking, and use of off-site parking for employees. Pursuant to Sections 20.40.110.B.2 and 20.40.100 of the Zoning Code, a conditional use permit is required for each of these requests. Pursuant to Section 20.40.070.B.3 of the Zoning Code, a conditional use permit is also required to allow the construction of a parking structure adjacent to a residential zoning district. The following sections of the report describe each of the parking related requests in detail. The *Conditional Use Permit Findings* section of the report summarizes whether the findings can be supported for each of these requests.

Adjustment to Off-Street Parking Requirements

Based on the parking requirements discussed above, a total of 157 parking spaces are anticipated to be required. Section 20.40.10.B.2 of the Zoning Code allows required off-street parking to be reduced with the approval of a conditional use permit where two or more distinct uses on the same site have distinct and differing peak parking demands. A shared parking analysis has been prepared by LSA Associates, Inc., (Attachment No. PC6) that indicates that because of the different hours of operation of the assumed mix of tenants, not all of the uses within the project will require their full allotment of parking spaces at the same time. The analysis indicates that the total parking required has two separate peaks: 1) one peak during the early afternoon with a total demand for 131 parking spaces at 1:00 p.m.; and 2) a second peak in the early evening with a total demand of 145 parking spaces at 6:00 p.m. The analysis concludes that the parking demand in excess of the 136 spaces provided on site does not manifest until 6:00 p.m. (145 spaces). Please see *Conditional Use Permit Findings* section below for a discussion of the required findings for approval.

Parking Management Plan

In order to maximize the number of parking spaces that can be accommodated within the on-site parking structure, the applicant is proposing a total of 136 parking stalls consisting of 80 standard stalls, 42 tandem stalls, and 14 valet-only specific aisle and corner stalls. A parking management plan will be required to be implemented to ensure the parking structure adequately functions. Sunset Parking Services has prepared a parking management plan entitled "Daily Operational Plan" (Attachment No. PC7) that illustrates and explains in detail how the parking structure will be managed. In general, the plan indicates the following:

- Employee Parking- A total of 46 spaces will be reserved as employee parking on the third level. Tandem stalls on the third level will be assigned to the same

tenant. Additional employee parking needed before 5:00 p.m. will be accommodated by valet. After 5:00 p.m., 20 additional employee parking spaces may also be provided in the off-site parking lot located at 601 Dover Drive.

- Customer Parking- Between the hours of 7:00 a.m. and 10:00 a.m., a total of 32 customer parking spaces will be provided on the first level as self-parking. Between the hours of 10:00 a.m. and 5:00 p.m., a total of 32 parking spaces will be provided on the first level as self-parking and an additional 58 spaces will be provided on the first, second, and third level through valet operations. Between 5:00 p.m. and close, or when the need arises due to actual parking demand, all guest parking will be managed through valet operations to accommodate the queuing of vehicles within the first level.

The parking management plan has been reviewed and approved by the City's Traffic Engineer. Although tandem parking for employees and valet parking within a parking structure is not ideal, given the design constraints with providing parking in compliance with City standards on such a shallow lot, staff believes the proposed parking management plan is a reasonable solution. The approval of a parking management plan requires the approval of a conditional use permit. Please see *Conditional Use Permit Findings* section below for a discussion of the required findings for approval.

Off-Site Parking

To address the nine space parking deficit that is anticipated to occur after 6:00 p.m., the applicant is prepared to enter into an off-site parking agreement to provide 20 employee parking spaces. The off-site parking would be provided at the medical office parking lot located at 601 Dover Drive (see Vicinity Map). Pursuant to Section 20.40.100 of the Municipal Code, approval of a conditional use permit is required for a parking facility that is not located on the same site it is intended to serve. In addition to the standard conditional use permit findings discussed *Conditional Use Permit Findings* section of this report, the Planning Commission must also make each of the following findings:

1. *The parking facility is located within a convenient distance to the use it is intended to serve;*
2. *On-street parking is not being counted towards meeting parking requirements:*
3. *Use of the parking facility will not create undue traffic hazards or impacts in the surrounding area; and*
4. *The parking facility will be permanently available, marked, and maintained for the use it is intended to serve.*

The parking lot is located approximately 1,050 feet (walking distance) north of the project site at the corner of Dover Drive and Cliff Drive. The lot would be used solely by

employees of the project and not by customers. The *Manual on Uniform Traffic Control Devices* (MUTCD) suggests four feet per second as a normal walking speed; therefore, it would take an employee approximately 4 minutes and 22.5 seconds to walk from the off-site lot. This is considered a convenient distance for employee parking.

The use of the parking lot will not create an undue traffic hazard as the proposed project and subject off-site parking lot are both located on the westerly side of Dover Drive. This allows employees to walk on the sidewalk and only needing to cross the signalized crosswalk at Cliff Drive. As indicated in the shared parking analysis, it is only anticipated that only 9 of 20 parking spaces will actually be needed. The sidewalk leading to the off-site parking lot is bordered by a hillside with residential uses located along the top of slope. Residences are also located behind the medical office site to the west; however, the residences are located at the top of a hillside and buffered from the parking area by the medical office building. Since the off-site parking will be used by employees only, typical noise disturbances associated with restaurant patrons loitering in parking lots is not expected.

The off-site parking spaces will be made available for the use of employees of the project after 5:00 p.m. on a daily basis, once the medical office tenants are closed for business. The owner's of the medical office building, 601 Dover LLC, are subject to a ground-lease that expires in 11 years and have indicated they are agreeable to entering into an agreement allowing the use of up to 20 parking spaces. If the ground lease is not renewed and the applicant loses the ability to provide parking on the lot, the applicant will be required to notify the Community Development Director who will establish a reasonable time for substitute parking to be provided or reduce the size of the tenant spaces or change the tenant mix (i.e. less restaurant or medical floor area) in proportion to the parking spaces lost.

Conditional Use Permit Findings –Parking Structure, Parking Adjustments, Parking Management Plan, and Off-Site Parking

Pursuant to Sections 20.40.070.B.3, 20.40.110.B.2, and 20.40.100 of the Zoning Code, a conditional use permit is required to allow for the construction of a parking structure adjacent to a residential zoning district, to modify the off-street parking requirements and to establish a parking management plan, and to allow for the use of off-site parking. Pursuant to Section 20.52.020.F of the Zoning Code, the Planning Commission must make the following findings in order to approve a conditional use permit:

1. *The use is consistent with the General Plan and any applicable specific plan;*
2. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code;*
3. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity;*

4. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities; and*
5. *Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.*

As previously stated, the commercial building and related uses are consistent with CG General Plan land use designation and CG zoning district. The parking structure is considered an accessory use that supports of the commercial uses. Parking structures and the use of valet are commonly associated with restaurant development and compatible with the other commercial uses located in Mariner's Mile; however, due to its close proximity to the residential uses to the north, the design and operation of the parking structure has the potential to impact the adjacent residences.

The parking structure is proposed to be located at the base of the hillside adjacent to a residential district, where the neighboring residential properties are located along the top of the hillside approximately 40-50 feet above the project's pad elevation. The height of the covered portion of the parking structure is 35 feet at the rear of the property directly adjacent to the residential district. The residential dwellings will remain approximately 22 feet higher in elevation than the surface of the third level parking deck (25 feet 10 inches) and 12 feet 6 inches higher in elevation than the top of the parking structure roof. The closest residential dwelling is located approximately 60 feet from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes provide adequate distance so that the mass and bulk of the parking structure should not negatively impact residents.

Parking structures have the potential to generate noise, such as car-alarms, car horns, car audio systems, people talking, vehicle pass-bys, and engine idling, which have the potential to disturb the adjacent residences. These individual noise sources last for short durations and their occurrences are infrequent; however, they can annoy neighbors. A noise analysis was prepared by The Planning Center as part of the MND to analyze the potential noise impacts associated with the previously proposed uncovered parking structure to the adjacent residents using sound modeling. The analysis concludes that the noise generated from vehicles and service trucks within the first and second level of the structure will be attenuated given that those levels are enclosed. With regard the uncovered third level, the analysis indicates that during the daytime, traffic noise from West Coast Highway and Dover Drive would be audible over the noise generated from the third level. In the evening, noise generated from the third level would be less than the City's 45 dBL Leq exterior noise standard at the residences. In addition, the third level of the parking structure will be reserved for employee and valet parking only, avoiding potential noise disturbances that may be

associated with patrons loitering in the parking area after hours. Although noise from the third level of the parking structure is not anticipated to violate the Community Noise Ordinance standards, the applicant has since proposed to partially enclose and cover the rear two-thirds of the parking structure. This roof will have the effect of further attenuating noise generated from vehicles on the third level of the parking structure.

Illumination of the third parking level is necessary for safety; however, it also has the potential to negatively impact the residents above if not properly designed and controlled. As currently designed, the rear two-thirds of the upper parking level will be covered and will shield illumination of the parking structure from view of the resident's above. To illuminate the uncovered portion of the parking structure, light fixtures would be recessed into the southerly and westerly walls with very low light output and shields to eliminate glare from views above. In addition, the project has been conditioned to require a nighttime light inspection to confirm there are no light and glare impacts.

With regard to the modification of the off-street parking requirements, the LSA Shared Parking Analysis indicated that not all uses within the project will require their full allotment of parking spaces at the same time, therefore, the adjustment in parking requirements is justified. When demand for parking within the structure exists, the applicant's parking management plan should ensure that employees and patrons are able to park on-site. The parking management plan has been reviewed and approved by the City's Traffic Engineer. The Traffic Engineer and Fire Department have reviewed the parking lot design and have determined that the parking lot design will function safely and will not prevent emergency vehicle access. Although tandem parking for employees and valet parking within a parking structure is not ideal, given the design constraints with providing parking in compliance with City standards on a shallow lot, the proposed parking management plan is a reasonable solution.

With regard to the off-site parking, the location of the off-site parking is convenient for the use of employee parking. It is not anticipated that the use of the off-site parking lot would create an undue traffic hazard or result in noise disturbances to the adjacent residences.

Variance -Rear Setback Encroachment

The proposed project encroaches five feet into the rear five-foot-setback adjacent to the residential lots to the north. Pursuant to Section 20.52.090 of the Zoning Code, the Planning Commission must make the following findings in order to approve a variance:

1. *There are special or unique circumstances or conditions applicable to the subject property (e.g., location, shape, size, surroundings, topography, or other physical features) that do not apply generally to other properties in the vicinity under an identical zoning classification;*

2. *Strict compliance with Zoning Code requirements would deprive the subject property of privileges enjoyed by other properties in the vicinity and under an identical zoning classification;*
3. *Granting of the Variance is necessary for the preservation and enjoyment of substantial property rights of the applicant;*
4. *Granting of the Variance will not constitute a grant of special privilege inconsistent with the limitations on other properties in the vicinity and in the same zoning district;*
5. *Granting of the Variance will not be detrimental to the harmonious and orderly growth of the City, or endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood; and*
6. *Granting of the Variance will not be in conflict with the intent and purpose of this Section, this Zoning Code, the General Plan, or any applicable specific plan.*

The subject property is wide (approx. 340 feet) and shallow (approx. 90 feet avg.) Although many of the lots along the inland side of the Mariner's Mile corridor consist of shallow lots, this property in particular is especially shallow given the acquisition of the property frontage in 1979 to accommodate the Bay Bridge realignment project. The realignment reduced the property depth approximately 27 feet on the westerly end and 47 feet on the easterly end of the property. In comparison to the adjacent properties to the west, the subject property is approximately 25 feet shallower. The 60 lots on the inland side of West Coast Highway and located between the intersection of Dover Drive and the westerly boundary the Balboa Bay Club are the shallowest commercial lots within Marine's Mile corridor area. Of these 60 lots, only four lots have lot depths less than 100 feet (96.47 at its shallowest end). Over half of these lots consist of lot depths greater than 140 feet. The average lot depth of these 60 lots is approximately 120 feet.

The reduced lot depths do not accommodate an optimal commercial center site configuration. To design an optimal commercial building, the commercial square footage has been consolidated on the eastern portion of the site as a two-level design in order to accommodate the required on-site parking on the western portion of the site where the lot depth is greater. To accommodate the project (even if developed at a 0.5 FAR with two levels of parking) encroachment into the rear five-foot setback would be necessary to comply with City standards for minimum drive aisles, parking stall dimensions, turning radiuses, and sight distance requirements. If the proposed parking structure and commercial building were located on the other 54 inland lots within this portion of Mariner's Mile, it could be accommodated without the need to encroach, and therefore, does not constitute the granting of a special privilege inconsistent with the limitations upon other properties in the Mariner's Mile corridor.

Typically, commercially zoned properties are not required to maintain rear setbacks, except when located adjacent to residentially zoned properties. The intent is to provide

separation for light, air, and open space adjacent to these residential properties. In this case, four residential lots abut the project's rear property line; however, the houses are located on the hillside approximately 40-50 feet above the project's pad elevation. The closest residential dwelling is located approximately 60 feet from the rear property line. These vertical and horizontal separations between the proposed commercial building and the homes provide adequate buffer equivalent to or superior to a five-foot rear setback; therefore, the five-foot encroachment should not prove detrimental to the abutting residences, nor result in a condition where the commercial development will endanger or create a hazard to those persons residing in the houses above. The development includes cutting into the toe of the slope; however, the preliminary geotechnical report indicates that construction of the retaining wall is feasible, subject to the recommendations within the report and in compliance with Building and Grading Codes, and will not undermine the stability of the hillside. In addition, the hillside is heavily landscaped and the applicant has agreed to work with adjacent residential property owners to further landscape the slope to provide increased landscaped screening of the rear of the project.

Parcel Map – Lot Consolidation

The property consists of six legal lots, which the applicant is proposing to consolidate into one unified site. Pursuant to Section 19.12.060 of the Municipal Code, the merger of five or more lots requires the approval of a parcel map. The approval of the parcel map is straightforward in the case and staff believes the facts clearly exist to approve a parcel map. These required findings and facts in support of these findings are included in the attached draft resolution.

The subject site is located at the intersection of West Coast Highway and Dover Drive and serves as the gateway into the Mariner's Mile commercial corridor of the City. Given its location, this site is ideal for the development of a commercial building and the subject parcel map allows for the consolidation of six shallow lots into one unified site large enough to accommodate a viable commercial development.

The Public Works Department has reviewed the proposed tentative map and believes it is consistent with the Newport Beach Subdivision Code (Title 19) and applicable requirements of the Subdivision Map Act. The proposed project accommodates the future widening of Coast Highway and all utility lines will be undergrounded.

The design of the development will not conflict with any easements acquired by the public at large for access through or use of property within the proposed development as there are no public easements that are located on the property. An easement through the site will be retained by the City for sewer and utilities purposes.

Traffic Study- Traffic Phasing Ordinance

Municipal Code Chapter 15.40 (Traffic Phasing Ordinance, or TPO) requires that a traffic study be prepared and findings be made before building permits may be approved if a proposed project will generate in excess of 300 average daily trips (ADT). For the purposes of preparing the traffic analysis for this project, the 23,015-square-foot commercial building was assumed to include 12,722 square feet of quality restaurant, 7,293 square feet of specialty retail, and 3,000 square feet of medical office. Combined, this land use mix is forecast to generate 1,292 additional trips per day, including 16 additional a.m. peak hour trips and 70 p.m. peak hour trips. It should be noted that this land use mix yields a higher project trip generation than the actual currently proposed land use mix of 9,522 square feet of restaurant, 10,493 square feet of retail, and 3,000 square feet of medical office and, therefore, the traffic analysis prepared for this project is considered to be a conservative as it over-estimates average daily trips by 93 trips.

Pursuant to Section 15.04.030.A, the Planning Commission must make the following findings in order to approve the project:

1. *That a traffic study for the project has been prepared in compliance with this chapter and Appendix A;*
2. *That, based on the weight of the evidence in the administrative record, including the traffic study, one of the findings for approval in subsection (B) can be made:*
 - 15.40.030.B.1 Construction of the project will be completed within 60 months of project approval; and*
 - 15.40.030.B.1(a) The project will neither cause nor make an unsatisfactory level of traffic service at any impacted intersection.*
3. *That the project proponent has agreed to make or fund the improvements, or make the contributions, that are necessary to make the findings for approval and to comply with all conditions of approval.*

A traffic study, entitled "Mariner's Pointe Traffic Impact Analysis dated February 17, 2011" was prepared by RBF Consulting under the supervision of the City Traffic Engineer pursuant to the TPO and its implementing guidelines (Attachment NO. PC8).

A total of 12 primary intersections in the City were evaluated. The traffic study indicates that the project will increase traffic on six of the 12 study intersections by one percent (1%) or more during peak hour periods one year after the completion of the project and, therefore, these six intersections required further Intersection Capacity Utilization (ICU) analysis. Utilizing the ICU analysis specified by the TPO, the traffic study determined that the six primary intersections identified will continue to operate at satisfactory levels of service as defined by the Traffic Phasing Ordinance, and no mitigation is required.

Since implementation of the proposed project will neither cause nor make worse an unsatisfactory level of traffic service at any impacted primary intersection within the City, no improvements or mitigation are necessary. Therefore, staff recommends that the Planning Commission find that the traffic study has been prepared in compliance with the TPO.

Environmental Review

A Mitigated Negative Declaration (MND) has been prepared by The Planning Center, in accordance with the implementing guidelines of the California Environmental Quality Act (CEQA), the State CEQA Guidelines, and City Council Policy K-3. The MND is attached as Attachment No. PC9 and was routed to the Planning Commission in advance of this staff report to allow additional time to review the report. A copy of the MND was also made available on the City's website, at each Newport Beach Public Library, and at the Community Development Department at City Hall.

The MND does not identify any component of the project that would result in a "potentially significant impact" on the environment per CEQA guidelines. However, the document does identify components of the project that would result in effects that are "less than significant with mitigation incorporated" as a result of construction of the project with regard to the following five environmental categories: Biological Resources, Cultural Resources, Geology and Soils, Noise, and Transportation and Traffic. The document recommends the adoption of 11 mitigation measures to mitigate the effects to a point where no significant effects would occur. These mitigation measures are identified in the Mitigation Monitoring and Reporting Program, which is attached as Exhibit A of Attachment No. PC1.

The MND was made available for public review for a 30-day comment period from April 11, 2011, to May 11, 2011. Staff has received three comment letters from agencies, one comment letter from the California Cultural Resource Preservation Alliance, and five comment letters from residents who live in the Cliff Haven neighborhood above the project site. Letters from the residents generally state concern with the size of the project, private view impacts, potential odors, noise from the parking structure and outdoor patios, potential lighting impacts, and traffic impacts. Although not required pursuant to CEQA, written responses have been prepared for each of the comment letters. The comment letters and responses have been attached as Attachment No. PC10.

Summary

The proposed project implements the City's goal of abating the dilapidated improvements on the constrained property, and will redevelop and improve the property with a new commercial building that exhibits a high level of architectural detail and amenities. The project will also serve as a prominent entry feature into the Mariner's Mile corridor of the City. With that said, the project is designed at a 0.7 FAR and would maximize the building envelope and would require several deviations from development

standards in order to accommodate the project. The parking strategy for the project is less than ideal and requires an adjustment to the parking standards based on shared parking, the use of tandem and valet parking for the parking structure, and off-site parking to function. Given the constraints of the property, the parking strategy remains a reasonable solution.

The project has been designed to maintain clean roofs with all mechanical equipment screened from view within an equipment enclosure to minimize potential impacts to the resident's above. The third level of the parking deck has been designed within a roof enclosure that would screen the resident's view of vehicles, parking structure lighting, and would provide additional noise buffering. Also, the two smaller outdoor dining patios for the restaurants have been designed to be covered and screened from view from the residents, minimizing noise and visual disturbances. At this time, staff is not recommending approval of the larger 750-square-foot outdoor patio within the right-of-way, but rather is recommending that the outdoor patio request be deferred until the review of the use permit for the future restaurant use.

The increase in intensity, proposed land use mix, and required parking has resulted in a larger, bulkier development and has not allowed the applicant to provide increased open space to offset the increase in height. However, the project has been designed to a high quality architectural standard and incorporates a number of amenities beyond what would normally be required. Primarily the project had been designed with modulated building masses and roof lines to provide visual relief, vertical modulation in the form of tower elements with sloping roofs, and the addition of design elements such as balconies, tower features, awnings, trellises, ornamental windows and railings, that enhance the visual quality of the buildings and street frontage. To break up the appearance and massing of the parking structure, the design includes a variety of materials, the use of recessed openings, and incorporates a storefront with a vertical tower element. Enhanced landscaping within the public-right-of-way is proposed and would incorporate a water feature that would improve the streetscape and entrance into the corridor. In addition to the highway noise attenuation that the building will provide for the resident's above, the resident's will also benefit from the removal of the three existing power poles and overhead lines located along the rear of the property on the residential lots.

Alternatives

Should the Planning Commission conclude that the project as proposed would not be compatible with the surrounding uses and/or that any increased intensity request is inappropriate, the project should be denied, or modified to address the issues of concern. If a redesigned project is the Commission's conclusion, staff recommends a continuance to allow the applicant time to revise their plans accordingly.

PUBLIC NOTICE

Notice of this hearing was published in the Daily Pilot, mailed to property owners within 300 feet of the property (excluding roads and waterways) and posted at the site a minimum of 10 days in advance of this hearing consistent with the Municipal Code. The environmental assessment process has also been noticed consistent with the California Environmental Quality Act. The Notice of Intent (NOI) to adopt the MND was mailed to property owners within 300 feet of the property (excluding roads and waterways), posted at the site and at City Hall, and e-mailed to all parties that have signed up to receive notification of the preparation of environmental documents in the City. Finally, the item appeared upon the agenda for this meeting, which was posted at City Hall and on the city website.

Prepared by:

Submitted by:


Jaime Murillo, Associate Planner


James W. Campbell, Principal Planner

ATTACHMENTS

- PC 1 Draft Resolution with Findings, Conditions, and Mitigation Monitoring and Reporting Program
- PC 2 Parcel Map
- PC 3 Project Plans
- PC 4 Land Use Element Changes
- PC 5 Zoning Map Changes
- PC 6 Shared Parking Analysis
- PC 7 Parking Management Plan
- PC 8 Traffic Study
- PC 9 Draft Mitigated Negative Declaration (distributed separately due to bulk)
- PC 10 Comments and Responses

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